

Before the  
Federal Communications Commission  
Washington, D.C. 20554

2006 FEB -6 P 4: 35

In the Matter of

Amendment of Section 73.202(b)  
Table of Allotments,  
FM Broadcast Stations.  
(Naples and Sanibel, Florida)

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MB Docket No. 05-134  
RM-11207

RECEIVED &amp; INSPECTED

**REPORT AND ORDER**  
**(Proceeding Terminated)**

Adopted: February 2, 2006

Released: February 6, 2006

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division considers herein the *Notice of Proposed Rule Making* ("Notice"),<sup>1</sup> issued at the request of Meridian Broadcasting Inc. ("Petitioner"), licensee of Station WTLT(FM), Channel 229C3, Naples, Florida. Petitioner filed comments. No counterproposals or other comments were received in response to this proceeding.

2. **Background.** The *Notice* proposed the substitution of Channel 229C2 for Channel 229C3 at Naples, Florida, reallocation of Channel 229C2 from Naples to Sanibel, Florida, as its first local service, and modification of the Station WTLT(FM) license accordingly. Petitioner filed comments, reiterating its expression of interest in the reallocation of Station WTLT(FM) to Channel 229C2 at Sanibel, Florida.

3. Petitioner filed its request pursuant to Section 1.420(i) of the Commission's rules, which permits the modification of a station's license to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest in the proposed allotment.<sup>2</sup> The proposed reallocation of Channel 229C2 at Sanibel is mutually exclusive with the current authorized facilities of Station WTLT(FM), Channel 229C3, Naples, Florida.

4. **Discussion.** When considering a reallocation proposal, a comparison is made between the existing allotment and the proposed allotment to determine whether the reallocation would result in a preferential arrangement of allotments based upon the FM Allotment priorities.<sup>3</sup> The proposed Channel 229C2 reallocation at Sanibel would provide a first local service, whereas the retention of Station WTLT(FM) at Naples would attribute to a seventh local service.<sup>4</sup> As such, the reallocation proposal results in a preferential arrangement of allotments based on priority (3), first local service.

<sup>1</sup> See *Naples and Sanibel, Florida*, 20 FCC Rcd 6219 (MB 2005).

<sup>2</sup> See *Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), recon. granted in part 5 FCC Rcd 7394 (1990).

<sup>3</sup> The FM Allotment priorities are (1) First full-time aural service. (2) Second full-time aural service. (3) First local service. (4) Other public interest matters. [Co-equal weight is given to priorities (2) and (3)], See *Revision of FM Assignment Policies and Procedures*, 90 FCC Rcd 88, 91 (1988).

<sup>4</sup> AM Station WNOG, noncommercial FM Stations, WBGY, WSRX, WSOR, and FM Station WARO and WSGL are currently licensed to Naples.

5. Accordingly, we are substituting Channel 229C2 for Channel 229C3 at Naples, Florida, reallocoting Channel 229C2 from Naples to Sanibel, Florida, as its first local service and modifying the Station WTLT(FM) license.

6. A staff engineering analysis has determined that Channel 229C2 can be allotted to Sanibel in conformity with the Commission's rules, provided there is a site restriction of 8.3 kilometers (5.2 miles) northwest at coordinates 26-30-00 NL and 82-05-00 WL. The Sanibel reallocation results in a net gain of 59,475 persons. The gain and loss area are currently well-served with five or more aural reception services.

7. Sanibel, Florida is part of the Cape Coral, Florida Urbanized Area. The Sanibel reallocation would cover 91.1 percent of the Cape Coral, Florida Urbanized Area and 6 percent of the Bonita Springs-Naples, Florida Urbanized Area. Currently, the existing Channel 229C3 facility at Naples for Station WTLT(FM) is part of the Bonita Springs - Naples, Florida Urbanized Area and covers 90.3 percent of the Bonita Springs - Naples, Florida Urbanized Area and 12.8 percent of the Cape Coral Urbanized Area within its current 70 dBu contour. Petitioner submitted a *Tuck* showing that conclusively demonstrates that Sanibel warrants a first local preference because the community is not dependent upon the Cape Coral, Florida Urbanized Area.<sup>5</sup>

8. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. § 801(a)(1)(A).

9. Accordingly, pursuant to the authority found in 47 U.S.C. Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) and 47 C.F.R. Sections 0.61, 0.204(b) and 0.283, IT IS ORDERED, That effective March 23, 2006, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED, with respect to the communities listed below, to read as follows:

<u>Communities</u>	<u>Channel No.</u>
Naples, Florida	233C, 284C2
Sanibel, Florida	229C2

10. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a) that the authorization of Meridian Broadcasting Inc. for Station WTLT(FM), Channel 229C3, Naples, Florida IS MODIFIED to specify operation on Channel 229C2 at Sanibel, Florida, subject to the following conditions:

(a) Within 90 days of the effective date of the *Order*, the licensee of Station WTLT(FM) shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with 47 C.F.R. Section 73.1620; and

(c) Nothing contained herein shall be construed to authorize a

<sup>5</sup>See *Headland, Alabama and Chattahoochee, Florida*, 10 FCC Rcd 10352 (1995). See also, *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1998) ("*Tuck*") and *RKO General*, 5 FCC Rcd 3222 (1990) ("*KFRC*").

change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to 47 C.F.R. Section 1.1307, unless the proposed facilities are categorically excluded from environmental processing.

11. Pursuant to 47 C.F.R. Sections 1.1104(1)(k) and (3)(l) of the Commission's rules, Meridian Broadcasting Inc., licensee of Station WTLT(FM), Channel 229C3, Naples, Florida is required to submit a rulemaking fee in addition to the fee required for the application to effectuate the community of license for Station WTLT(FM) to specify operation on Channel 229C2 at Sanibel, Florida at the time its Form 301 application is submitted.

12. IS FURTHER ORDERED, That the aforementioned proceeding IS TERMINATED.

13. For further information concerning this proceeding, contact Rolanda F. Smith, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Assistant Chief  
Audio Division  
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